IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12572 of 2000

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMESHCHANDRA SHIVLAL MODI

Versus

APPELLATE AUTHORITY AC RAVAL OR SUCCESSOR

Appearance:

MR JD AJMERA for ASHOK S PATEL for Petitioner

MS HANSABEN PUNANI, AGP, for Respondent No. 1-2

MR MUKUND M DESAI for Respondent No. 3

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 24/09/2002

ORAL JUDGEMENT

1. The present petitioner, being a teacher employed by respondent no.3, has challenged in the present petition under Article 227 of the Constitution of India, the judgement and order passed in Appeal No.9/2000 dated 14th August 2000, the order passed by the appellate authority under the Payment of Gratuity Act, 1972.

2. The net conclusion drawn by the appellate authority, rejecting the claim of the present petitioner, is that a teacher is not an "employee" within the meaning of the Payment of Gratuity Act, and therefore no benefit as claimed by the said teacher can be granted to him under the Act.

3. This issue and legal controversy is squarely covered by a Full Bench Decision of this Court in the case of Shantiben L. Christian Vs. Administrative Officer, rendered in SCA No.5272/87, decided on 4th May 2001 [2001(2) GLH 389]. This decision leaves no doubt that a primary teacher serving under an educational trust as a primary teacher does not fall within the definition of the word "employee" as defined under the Payment of Gratuity Act. This conclusion has been drawn by the Full Bench after considering the comparable provisions of section 2(s) of Industrial Disputes Act, 1947 as also section 2(i) of the Minimum Wages Act.

4. After having carefully perused the aforesaid decision, I am in respectful agreement with the principles laid down therein and the conclusions drawn. I see no reason whatsoever to take a contrary view.

5. I may also add here that as a Single Judge of this Court, I have no power to take any view contrary to the view expressed by the Larger Bench. Even in cases where another view is possible, as a Single Judge of this Court, it is not open to me to doubt the validity of the decision of a Larger Bench, and/or to refer the same to yet another Larger Bench. This principle is clearly pronounced by the Supreme Court in the case of Pradip Chandra Parija, reported in 2000(1) SCC page 1.

6. I am informed by learned counsel for the petitioner that the aforesaid decision of this Full Bench has been carried to the Supreme Court and that the relevant SLP has been admitted. However, I am also informed that the impugned judgement referred to hereinabove has not been stayed. In the premises, I am bound to find that the said judgement is still good law, and binding upon all the Courts in the State.

7. In the premises aforesaid, I find that there is no substance in the present petition and the same is therefore rejected. Notice is discharged with no order as to costs.

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